

OFFICIAL GAZETTE



GOVERNMENT OF GOA

NOTE: There is one Supplementary and three Extraordinary issues to the official Gazette, Series I No. 37 dated 14-12-1995 as follows:—

- 1) Supplement dated 14-12-1995 from pages 369 to 370 regarding Notification from Legislature Secretariat.
- 2) Extraordinary dated 15-12-1995 from pages 371 to 372 regarding Notification from Department Law (Legal Affairs Division).
- 3) Extraordinary No. 2 dated 18-12-95 from pages 373 to 374 regarding Notification from Department of Urban Development.
- 4) Extraordinary No. 3 dated 20-12-1995 from pages 375 to 376 regarding Notification from Department of Personnel.

GOVERNMENT OF GOA

Department of Legislative Affairs

LEGISLATURE SECRETARIAT

LA/B/3406/1994

The following Bill which was introduced in the Legislative Assembly of Goa on 11-12-95 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 12th December, 1995.

The Goa Animal Preservation Bill, 1995

(Bill No. 25 of 1995)

A BILL

to provide for the preservation of certain animals suitable for milch, breeding, draught or agricultural purposes.

Be it enacted by the Legislative Assembly of Goa in the Forty-sixth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Animal Preservation Act, 1995.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

- (a) "Competent authority" means a person or body of persons appointed by the Government under section 3 to perform the functions of competent authority under this Act;
- (b) "Government" means the Government of Goa;
- (c) "Official Gazette" means the Official Gazette of the Government;
- (d) "prescribed" means prescribed by rules made under this Act;
- (e) "Schedule" means the Schedule appended to this Act;
- (f) "Scheduled animal" means any animal specified in the Schedule and the Government may, by notification in the Official Gazette, add to the Schedule any species of animals, after considering the necessity for preservation of that species of animals, and the provisions of section 3 of the Goa, Daman and Diu Laying of Rules before Legislature Act, 1980 (Act 5 of 1980) insofar as they relate to laying before, and modification by, the Legislature, shall apply in relation to such notification, as they apply to any rule referred to in that section.

3. *Appointment of competent authority.*— The Government may, by notification in the Official Gazette, appoint one or more persons or more bodies of persons to perform the functions of a competent authority under this Act and specify the areas within which they shall perform such functions.

4. *Restrictions on slaughter of scheduled animals.*— (1) Notwithstanding anything contained in any law for the time being in force or any usage or custom to the contrary, no person shall slaughter or cause to be slaughtered any scheduled animal in any place in the State of Goa, unless he has obtained in respect of such animal, a certificate in writing from the competent authority that the animal is fit for slaughter.

(2) No certificate shall be granted under sub-section (1), if in the opinion of the competent authority,—

- (a) the scheduled animal, whether male or female, is or is likely to become economical for

the purpose of draught or any kind of agricultural operations;

(b) the scheduled animal, if male, is or is likely to become economical for the purpose of breeding;

(c) the scheduled animal, if female, is or is likely to become economical for the purpose of giving milk or bearing off-spring.

(3) The Government may, on an application by any person aggrieved by an order passed by the competent authority refusing to grant him a certificate, made to it within sixty days from the date of receipt of such order, or at any time suo motu, call for and examine the records of the case for the purpose of satisfying itself as to the legality or propriety of any order passed by the competent authority under this section, and pass such order in reference thereto as it thinks fit.

(4) A certificate under this section shall be granted in such form and upon payment of such fees as may be prescribed.

(5) Subject to the provisions of sub-section (3), any order passed by the competent authority granting or refusing to grant a certificate, and any order passed by the Government under sub-section (3), shall be final and shall not be called in question in any Court.

5. *Scheduled animals to be slaughtered at specified places only.*— No scheduled animal in respect of which a certificate has been issued under section 4 shall be slaughtered in any place other than a place specified by such authority or officer as the Government may appoint in that behalf.

6. *Power to enter and inspect places.*— (1) For the purpose of this Act, the competent authority or any person authorised in writing in that behalf by the competent authority (hereinafter in this section referred to as "the authorised person"), shall have power to enter and inspect any place where the competent authority or the authorised person has reason to believe that an offence under this Act has been, or is likely to be committed.

(2) Every person in occupation of any such place shall allow the competent authority or the authorised person, such access to that place as may be necessary for the aforesaid purpose and shall answer to the best of his knowledge and belief, any question put to him by the competent authority or the authorised person.

7. *Prohibition of sale of beef.*— (1) Notwithstanding anything contained in any other law for the time being in force, no person shall sell or offer for sale or cause to be sold beef or beef products in any form in contravention of sections 4, 5 and 6 except imported beef from neighbouring States under hygienic condition examined by a competent authority and in respect of which a certificate has been granted.

(2) A certificate under this section shall be granted in such form and upon payment of such fees as may be prescribed.

8. *Penalties.*— Whoever contravenes any of the provisions of this Act shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both.

9. *Offences under this Act to be cognizable.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), all offences under this Act shall be cognizable.

10. *Abetments and attempts.*— Whoever abets any offence punishable under this Act or attempts to commit any such offence shall be deemed to have committed that offence and shall, on conviction, be punished with the punishment provided for such offence under section 8.

11. *Persons exercising powers under this Act deemed to be public servants.*— All persons exercising powers under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

12. *Protection of persons acting in good faith under this Act or Rules.*— No suit, prosecution or other legal proceedings shall lie against the Government or any officer of the Government or local authority in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules made or orders or directions issued thereunder.

13. *Power to grant exemption under this Act.*— Subject to such conditions as may be prescribed in this behalf, this Act shall not apply to,—

(a) any animal (other than cow) operated upon for vaccine, lymph or serum at any institution established, conducted or recognised by the Government;

(b) any animal (other than cow) operated upon for any experimental or research purposes at the institution referred to in clause (a);

(c) any animal (other than cow):—

(i) slaughter of which is certified by a veterinary surgeon authorised in this behalf by the Government, to be necessary in the interest of the public health;

(ii) which is suffering from any disease which is certified by such veterinary surgeon as being contagious and dangerous to other animals:

Provided that no animal referred to in this section shall be slaughtered unless an authority in writing for such slaughter has been obtained from the competent authority.

14. *Delegation of powers.*— The Government may, by notification in the Official Gazette, delegate subject to such conditions and limitations as may be specified in the notification,—

(a) to any local authority, its powers and functions under section 3 within the local area subject to the jurisdiction of such local authority;

(b) to any officer of the Government, its powers and functions under sub-section (3) of section 4 as it may deem necessary or expedient.

15. *Provisions to be in addition to those of other Act.*— The provisions of this Act shall be in addition to, and not in derogation of the provisions of the Goa, Daman and Diu Prevention of Cow Slaughter Act, 1978 (Act 13 of 1978).

16. *Power to make rules.*— (1) The Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for,—

(a) the form of the certificates under sections 4 and 7;

(b) the amount of the fee to be paid for such certificates;

(c) the conditions subject to which this Act shall not apply to any scheduled animal under section 13;

(d) any other matter which is or may be prescribed.

SCHEDULE

(Section 2 (f))

Bovine (Bulls, bullocks, male calves, male and female buffaloes, castrated buffaloes and buffalo calves).

Statement of Objects and Reasons

A need is felt to preserve certain animals suitable for milch, breeding, draught or agricultural purposes by restricting indiscriminate slaughtering of such animals at unauthorised place.

This Bill seeks to achieve the above objects.

Memorandum Regarding Delegated Legislation

Clause 2 (f) of the Bill seeks to enable the Government by notification, to add to the Schedule, any species of animals after considering the necessity for preservation of that species of animals. Also, clause 3 of the Bill seeks to enable the Government by notification to appoint persons or bodies of persons to perform functions of competent authority. Besides, clause 14 of the Bill seeks to delegate its powers by notification to local authority or to its officer and clause 16 of the Bill seeks to empower the Government to make rules for the purposes of the Act corresponding to this Bill.

These delegations are of normal character.

Financial Memorandum

No additional financial implications are involved as certification to animals for entering this State will be done at the check post with the help of existing staff at the check posts.

Panaji: CHANDRAKANT U. CHODANKAR
7th December, 1995.

Minister for
Animal Husbandry

Assembly Hall
Panaji:
8th December, 1995.

ASHOK B. ULMAN
Secretary to the Legislative
Assembly of Goa.

LA/B/3407/1994.

The following Bill which was introduced in the Legislative Assembly of Goa on 11-12-95 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 12th December, 1995.

The Goa Compulsory Elementary Education Bill, 1995

(Bill No. 26 of 1995)

A

BILL

to make provisions for compulsory elementary education in the State of Goa.

Be it enacted by the Legislative Assembly of the State of Goa in the Forty-sixth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Compulsory Elementary Education Act, 1995.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act,—

(a) “attendance at an elementary school” means presence for instruction at an elementary school for such number of days, and on such days in a year, and at such time or times on each day of attendance, as may be prescribed;

(b) “competent authority” means the Director of Education of the Government or such other authority as may be specified by the Government;

(c) “elementary education” means education in such subjects and upto such standard as may be prescribed;

(d) “elementary school” means a school recognised as an elementary school by the competent authority and includes any elementary school in existence on the date of commencement of this Act which has been recognised as such by the Education Department;

(e) “Government” means the Government of Goa;

(f) “guardian” means any person to whom the care, nurture or custody of any child falls by law or by natural rights or by recognised usage, or who has accepted or assumed the care, nurture or custody of any child or to whom the care, nurture or custody of any child has been entrusted by any lawful authority;

(g) “parent” means the father or mother of a child and includes an adopted father or mother;

(h) "school age" in relation to a child means such age as may be prescribed;

(i) "year" means the academic year commencing on the 1st day of June.

3. *Elementary education to be compulsory.*— (1) Subject to the provisions of this Act, elementary education shall be compulsory for every child of school age.

(2) For giving effect to the provisions of sub-section (1), the Government shall provide such number of elementary schools in the State with trained teachers, as may be considered necessary.

4. *Duty of every parent or guardian.*— It shall be the duty of every parent or guardian of a child of school age to cause a child to attend an elementary school.

5. *Exemptions.*— Attendance at an elementary school for a child of school age shall not be compulsory —

- (i) if there is no elementary school within such distance, as may be notified by the Government, from the residence of such child;
- (ii) if such child is prevented from attending an elementary school by reason of sickness, infirmity or such other cause as may be prescribed;
- (iii) if such child is attending any unrecognised school provided that the education imparted therein is declared to be satisfactory by the competent authority;
- (iv) if such child is imparted education in such other manner as may be declared to be satisfactory by the competent authority;
- (v) if such child has already been imparted education in an elementary school or otherwise, upto the standard prescribed for elementary education; or
- (vi) if such child is exempt from attendance on any other ground as may be prescribed.

6. *Penalty.*— Every parent or guardian of a child of school age who fails to discharge his duty under section 4 shall be punishable with fine which may extend to one hundred rupees.

7. *Cognizance of offences.*— No court shall take cognizance of an offence punishable under this Act except on a complaint in writing made by the competent authority.

8. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceedings shall lie against the Government or any officer of the Government, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

9. *Power to make rules.*— The Government may make rules to carry out all or any of the purposes of this Act.

Statement of Objects and Reasons

In terms of Article 45 of the Constitution of India, the State shall endeavour to provide for free and compulsory education for all children until they complete the age of fourteen years. A policy decision has now been taken by the Government to provide compulsory elementary education for all children of school age in this State. To give effect to that policy decision, it is necessary to make elementary education compulsory for all children of school age. It is also necessary to make it obligatory on the part of every parent or guardian of a child of school age to cause the child to attend to an elementary school.

This Bill seeks to achieve the above object.

Financial Memorandum

At present, Government have established a network of 1062 Government Primary Schools within a reasonable walkable distance of one kilometer in each of the population hemlets. There are 458 Government and Non-Government Middle Schools within a distance of 2 kms. for each of the population hemlets.

However, on account of the proposed enactment of compulsory education upto the age of 14 years, it is estimated to open 15 schools for the migrant population mostly from Karnataka State. For these schools, it is needed to appoint 60 teachers mostly to teach through Kannada medium both in newly opened primary schools and also in upgraded schools which already exist.

One Assistant District Educational Inspector needs to be appointed for these schools and therefore the total estimated financial liability will be Rs. 18.50 lakhs per annum.

Memorandum regarding Delegated Legislation

Clauses 1(3), 2(a), (c) and (h), 5(ii) and (vi) authorise the Government to prescribe the manner and the method of giving effect to certain provisions of the proposed Act, when enacted and brought into operation, by making suitable notifications, orders or rules, as the case may be.

The powers delegated are normal and not of an exceptional character.

Panaji,
7th December, 1995.

PRATAPSINGH RANE
Chief Minister

Assembly Hall,
Panaji,
8th December, 1995.

ASHOK B. ULMAN
Secretary to the Legislative
Assembly of Goa.

LA/B/3408/1994

The following Bill which was introduced in the Legislative Assembly of Goa on 11-12-95 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 12th December, 1995.

The Goa Mundkars (Protection from Eviction) (Amendment) Bill, 1995

(Bill No. 27 of 1995)

A

BILL

furth^r to amend the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975.

Be it enacted by the Legislative Assembly of Goa in the Forty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Goa Mundkars (Protection from Eviction) (Amendment) Act, 1995.

(2) It shall be deemed to have come into force on 27th September, 1995.

2. *Amendment of section 2.*—In item (i) of clause (i) of section 2 of the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Act No. 1 of 1976),—

(a) in sub-item (a), after the expression “if the land is” and before the expression “within the jurisdiction”, the words “on the appointed date” shall be inserted;

(b) in first proviso to sub-item (b), after the word “where” and before the expression “the dwelling house”, the words “on the appointed date” shall be inserted.

3. *Repeal and saving.*—(1) The Goa Mundkars (Protection from Eviction) (Amendment) Ordinance, 1995 (Ordinance No. 1 of 1995) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any powers conferred by or under the said Ordinance, shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing or action was done or taken.

Statement of Objects and Reasons

In order to enable the mundkars living within such Village Panchayat areas which are being merged with Municipal Council, to get a fair deal, it has been decided to amend the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (Act 1 of 1976), to provide that the crucial date for determination of the area to be allotted to the mundkar should be the “appointed date” which is defined in clause 2 (e) of the said Act, i.e. 12-3-1976. This would suffice to protect the rights of the mundkars living in panchayat areas which are merged with a Municipal Council.

In order to achieve the above object, the Goa Mundkars (Protection from Eviction) (Amendment) Ordinance, 1995 (Ordinance No. 1 of 1995) was promulgated by the Governor of Goa on 27-9-1995, and the said Ordinance stands published in the Official Gazette, Series I, No. 27 (Extraordinary) dated 9-10-1995.

This Bill seeks to replace the said Ordinance.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Panaji,

7th December, 1995

WILFRED M. MESQUITA

Minister for Revenue

Assembly Hall,

Panaji,

8th December, 1995

ASHOK B. ULMAN

Secretary to the
Legislative Assembly of Goa.

(Annexure to Bill No. 27 of 1995)

The Goa Mundkars (Protection from Eviction) (Amendment) Bill, 1995

The Goa, Daman and Diu Mundkars (Protection from Eviction) Bill, 1975

Act No. 1 of 1976

Section 2.—(i) “dwelling house” means the house in which mundkar resides with a fixed habitation, whether such house was constructed by the mundkar at his own expense or at the bhatkar's expense or with financial assistance from the bhatkar and includes—

(i) (a) the land on which the dwelling house is standing and the land around and appurtenant to such dwelling house, subject to a maximum limit of five metres, if the land is within the jurisdiction of a village Panchayat, and two metres, if it is not within such jurisdiction, from the outer walls of the dwelling house:

Provided that, where the distance between the outer walls of the dwelling house of the mundkar and of the house of the bhatkar, or between the outer walls of the dwelling house of a mundkar and of the dwelling house or houses of one or more mundkars, is less than double the aforesaid limit the land appurtenant to such dwelling house shall be half of the land lying between the outer walls of the dwelling house of such mundkar and the bhatkar or between the outer walls of the dwelling house of such mundkar and the outer walls of the dwelling house or houses of such other mundkar or mundkars, as the case may be; or

(b) three hundred square metres of land including the land on which the dwelling house is standing:

Provided that where the dwelling house is within the jurisdiction of a municipal council, the dwelling house shall include two hundred square metres of land including the the land on which the dwelling house is standing,

Assembly Hall,

Panaji,

7th December, 1995

ASHOK B. ULMAN

Secretary to the
Legislative Assembly of Goa

LA/B/3409/1994

The following Bill which was introduced in the Legislative Assembly of Goa on 11-12-95 is hereby published for general information in pursuance of the provisions of Rule 138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 12th December, 1995.

**The Legislative Diploma No. 1984
dated 14-4-1960 (Fourth Amendment)
Bill, 1995**

(Bill No. 28 of 1995)

A

BILL

*to further amend the Legislative Diploma No. 1984
dated 14-4-1960.*

Be it enacted by the Legislative Assembly of Goa in the Forty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Legislative Diploma No. 1984 dated 14-4-1960 (Fourth Amendment) Act, 1995.

(2) It shall come into force at once.

(2) *Amendment of Article 13.*—For Article 13 of the Legislative Diploma No. 1984 dated 14-4-1960, the following shall be substituted, namely:—

“Article 13—The Government shall, under notification published in the Official Gazette, determine that the funds of Provedoria de Assistencia Publica be deposited in Banks.

Para 1. Funds called (1) “I.P.A. (Provedoria) Employees Provident Fund” and (2) “I.P.A. (Provedoria) Employees Pension and Gratuity Fund” shall be separated from the consolidated “Corpus Fund” of the I.P.A. (Provedoria) and maintained separately in the books of accounts. The balance fund shall be invested in, besides Co-operative Banks, long term deposits in Nationalised Banks or Financial Institutions recognised by the Reserve Bank of India which offer better financial terms. The withdrawal of the funds so deposited shall be made by cheques signed by the Director of Provedoria and Administrative-cum-Accounts Officer/Joint Director of Accounts.”.

Statement of Objects and Reasons

The Institute of Public Assistance (Provedoria) Employees Provident Fund and the I.P.A. (Provedoria) Employees Pension and Gratuity Fund are invested together with the I.P.A. Funds in the Co-operative Banks. It is now proposed to separate these two employees funds from the consolidated “Corpus Fund” of the I.P.A. (Provedoria).

Article 13 of the Legislative Diploma No. 1984 dated 14-4-1960 requires to be amended to give flexibility to invest the funds in Co-operative Banks, Nationalised Banks or financial institutions recognised by the R.B.I. which offer better financial terms, so that more interest is earned keeping in view the safety of the deposits.

This Bill seeks to achieve the above object.

Financial Memorandum

There are no financial implications involved in implementation of the provisions of this Bill as the existing machinery would be authorised under the Act.

Memorandum Regarding Delegated Legislation

Clause 2 of the proposed Bill empowers the Government by notification in the Official Gazette to determine the funds of Provedoria (I.P.A.) to deposit in Bank. The delegation is of normal character.

Panaji,
8th December, 1995.

PRATAPSINGH RANE
Chief Minister

Assembly Hall,
8th December, 1995.

ASHOK B. ULMAN
Secretary to the Legislative
Assembly of Goa.

(Annexure to Bill No. 28 of 1995)

The Legislative Diploma No. 1984 dated 14-4-1960
(Fourth Amendment) Bill, 1995

Legislative Diploma No. 1984 dated 14-4-1960.

Article 13.— The Government shall under notification published in the Official Gazette determine that the funds of Provedoria de Assistencia Publica be deposited in any Co-operative Bank Limited. The withdrawals of the funds so deposited shall be made by cheques signed by the Director of Provedoria and Administrative-cum-Accounts Officer.

Assembly Hall,
Panaji,
8th December, 1995.

ASHOK B. ULMAN
Secretary to the Legislative
Assembly of Goa.

LA/B/3430/1994

The following Bill which was introduced in the Legislative Assembly of Goa on 12-12-95 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 13th December, 1995.

The Goa Advocates Welfare Fund Bill, 1995

(Bill No. 29 of 1995)

A

BILL

to provide for the constitution of an Advocates Welfare Fund and utilisation thereof for payment of certain retirement and other benefits to the Advocates in the State of Goa.

Be it enacted by the Legislative Assembly of Goa in the Forty-sixth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Advocates Welfare Fund Act, 1995.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Definitions.* — In this Act, unless the context otherwise requires,—

- (a) "Advocate" means a person whose name has been enrolled on the roll of Advocates prepared and maintained by the Bar Council under section 17 of the Advocates Act;
- (b) "Advocates Act" means the Advocates Act, 1961 (Central Act XXV of 1961);
- (c) "Goa Advocates Welfare Fund" or "Fund" means the fund constituted under section 3 and maintained under the provisions of this Act;
- (d) "Bar Association" means an association of Advocates attached to any Court or any Tribunal or such other authority or person as is legally authorised to take evidence or to adjudicate or to decide any dispute in the State and recognised by the Board under section 17;
- (e) "Bar Council" means the Bar Council of Maharashtra and Goa constituted under section 3 of the Advocates Act;
- (f) "Board" means the Advocates Welfare Fund Board constituted under section 4;
- (g) "cessation of practice" in relation to an Advocate means discontinuance of practice by the Advocate by taking up any employment, trade, calling or other similar engagement or discontinuance of practice on account of death;
- (h) "dependants" means wife, husband, father, mother, unmarried daughter and minor children or such of them as exist;
- (i) "Government" means the Government of Goa;
- (j) "member of the Fund" means an Advocate who is admitted to the benefits of the Fund and who continues to be a member thereof under the provisions of this Act;
- (k) "nominee" means a person nominated in the prescribed manner by a member of the Fund to receive the amount, which may be due to the member, from the Fund in the event of his death before the amount is paid to him;
- (l) "prescribed" means prescribed by regulations;
- (m) "regulations" means regulations made by the Board under this Act;
- (n) "retirement" means giving up of practice as an Advocate which is communicated to and recorded by the Bar Council;
- (o) "stamp" means the Goa Advocates Welfare Fund Stamp printed and distributed by the Board under section 23;
- (p) "standing" means the period of actual practice after the commencement of this Act;

- (q) "State" means the State of Goa;
- (r) "suspension of practice" means suspension of practice as an Advocate voluntarily or suspension by the Bar Council for misconduct under the Advocates Act.

CHAPTER II

Constitution and management of Advocates Welfare Fund

3. *Constitution of Fund.*— (1) The Government shall constitute a fund called the Goa Advocates Welfare Fund.

(2) There shall be credited to the Fund—

- (a) an initial amount of rupees one lakh to be contributed by the Government;
- (b) all the amounts to be contributed by the Bar Associations from the year 1995 onwards;
- (c) any other contribution made by the Bar Association;
- (d) any voluntary donation or contribution to the Fund made by the Bar Council of India or any other Bar Council or any Bar Association;
- (e) any voluntary donation made to the Fund by any Advocate or his relatives;
- (f) contributions paid by members of the Fund to the Fund under section 22;
- (g) all sums received from the Life Insurance Corporation of India on the death of any member of the Fund under any Group Insurance Policy;
- (h) any profit or dividend from the Life Insurance Corporation of India in respect of policies of Group Insurance of the Members of the Fund;
- (i) any interest or dividend or other return on any investment made of any part of the Fund.

4. *Constitution of Board.*— (1) There shall be a Board consisting of the following members, namely:—

- (a) The Advocate-General, Goa State — Ex-Officio — Chairman.
- (b) The Law Secretary to the Government — Ex-Officio.
- (c) The Director of Prosecution, Government of Goa — Ex-Officio.
- (d) The Under Secretary (Law) to the Government — Ex-Officio — Secretary.
- (e) Three members to be nominated by the Government from amongst the members of the Fund.

(2) The powers, functions and duties of the Board shall be as provided by this Act and by regulations.

5. *Term of Office of nominated members of Board.*— A person nominated as a member of the

Board under clause (e) of sub-section (1) of section 4 shall hold office for such period as may be prescribed or for the duration of his membership in the Bar Council, whichever is less, unless he is removed under sub-section (2) of section 6 or he resigns his office and his resignation is accepted by the Board under section 7.

6. Disqualification and removal of nominated members.— (1) A person shall be disqualified to be a nominated member, if he —

- (a) is adjudged by a competent court to be of unsound mind; or
- (b) is adjudicated an insolvent and has not obtained his discharge; or
- (c) is convicted of an offence which in the opinion of the Government involves moral turpitude; or
- (d) has, in the opinion of the Government, committed a breach of trust or where he is a member of the Fund and has committed persistent default in payment of his contribution to the Fund under section 22.

(2) The Government may remove any nominated member, who is or has become disqualified under sub-section (1), from his office as a member of the Board:

Provided that no order removing any member shall be made unless that member and the Board have been given an opportunity of being heard.

7. Resignation by nominated members.— A nominated member may resign his office by giving one month's notice in writing to the Board and on such resignation being accepted by the Board, the nominated member shall be deemed to have vacated his office.

8. Filling up of casual vacancies.— A casual vacancy in the office of a nominated member occurring on account of death, resignation or removal of the member may be filled up, as soon as may be, by nomination of a person by the Government under clause (e) of sub-section (1) of section 4 and the person so nominated shall hold office so long as the member in whose place he is nominated would have been entitled to hold office, if the vacancy had not occurred.

9. Meetings of Board.— (1) The Board shall meet, at least once in three calendar months or more often if found necessary to transact business under this Act or the regulations made thereunder.

(2) Three members of the Board shall form the quorum for a meeting of the Board.

(3) The Chairman or, in his absence, member elected, shall preside over a meeting of the Board.

(4) Any matter coming up before a meeting of the Board shall be decided by a majority of the members present and voting at the meeting and, in the case of an equality of votes, the Chairman or the member presiding over the meeting shall have a casting vote.

10. Vesting and application of Fund.— The Fund shall vest in, and be held and applied by the Board, subject to provisions, and for the purposes, of this Act.

11. Functions of Board.— (1) The Board shall administer the Fund.

(2) In the administration of the Fund, the Board shall, subject to the provisions of this Act and the regulations made thereunder, —

- (a) hold the amount and assets belonging to the Fund in trust;
- (b) receive applications for admission or re-admission to the Fund, and dispose of such applications within ninety days from the date of receipt thereof;
- (c) receive applications from the members of the Fund, their nominees or legal representatives, as the case may be, for payment out of the Fund, conduct such enquiry as it deems necessary for the disposal of such applications within five months from the date of receipt thereof;
- (d) record in the minute book of the Board, its decisions on the applications;
- (e) pay to the applicants amounts at the rates specified in the Schedule;
- (f) sanction employment of such officers and servants as it may think necessary for performance of its duties and functions under this Act and determine their conditions of service;
- (g) send such periodical and annual reports, as may be prescribed, to the Government and the Bar Council;
- (h) communicate to the applicants by registered post with acknowledgement due the decisions of the Board in respect of applications of admission or re-admission to the Fund or claims to the benefit of the Fund;
- (i) do such other acts as are, or may be, required to be done by it under this Act and the regulations made thereunder.

12. Powers and duties of Secretary.— The Secretary of the Board shall —

- (a) be the Chief executive authority of the Board and responsible for carrying out its decisions;
- (b) represent the Board in all suits and proceedings for and against the Board;
- (c) authenticate by his signature all decisions and instructions of the Board;
- (d) operate the bank accounts of the Board jointly with the treasurer;
- (e) convene meetings of the Board and prepare their minutes;
- (f) attend the meetings of the Board with all the necessary records and information;

- (g) maintain such forms, registers and other records as may be prescribed from time to time and do all correspondence relating to the Board;
- (h) inspect and verify periodically the accounts and registers of the Bar Associations regarding the stamps;
- (i) prepare an annual statement of business transacted by the Board during each financial year;
- (j) make appointments of the officers and servants of the Board as sanctioned by the Board and have power to take disciplinary action against any such officer or servant;
- (k) do such other acts as may be directed by the Board.

13. *Appointment of officers and servants.*— For carrying out the provisions of this Act, the Board may appoint such officers and servants on such terms and conditions as may be prescribed.

14. *Amounts to be paid out of the Fund.*— All amounts due and payable under this Act and all expenditure relating to the management and administration of the Fund shall be paid out of the Fund.

15. *Periodical and annual reports to be sent to Government.*— The Board shall send to the Government such periodical and annual reports as may be prescribed.

16. *Maintenance of accounts and audit.*— (1) The Board shall cause to be maintained such books of accounts and other books in such form and in such manner as may be prescribed.

(2) The accounts of the Fund shall be audited annually by such person as may be prescribed or by any other person empowered by the Government to perform the functions of an auditor.

(3) After the account of the Fund is so audited, the Board shall send a copy of the auditor's report and balance sheet to the Government.

(4) The Board shall comply with the report of the auditor.

CHAPTER III

Recognition and registration of Bar Associations

17. *Recognition and registration of Bar Associations.*— (1) Any association of Advocates known by any name functioning in any Court or before any Tribunal or before any other authority or person legally authorised to take evidence or to adjudicate or decide any disputes may apply to the Board in the prescribed form for recognition and registration.

(2) Every application for recognition and registration shall be accompanied by the rules or bye-laws of the Association, the names and addresses of the office-bearers of the Association and an up-to-date list of the members of the Association showing the name, address, age, date of enrolment and the ordinary place of practice of each member.

(3) The Board may, after such inquiry as it deems necessary, recognise or refuse to recognise the association.

(4) On recognition of such an association, the Board shall issue a certificate of registration in the prescribed form.

(5) Any association aggrieved by the decision of the Board under sub-section (3), may prefer an appeal against the said decision to such authority as may be prescribed and the decision of such authority on the appeal shall be final.

(6) The appeal shall be accompanied by —

(a) the order appealed against;

(b) fee of one hundred rupees which shall not be refunded.

(7) The appeal shall be filed within thirty days from the date of receipt of the order appealed against.

18. *Duties of Bar Association.*— (1) Every Bar Association shall, on or before the 31st January every year, intimate to the Board a list of its members as on the 31st December of the previous year.

(2) Every Bar Association shall intimate to the Board —

(a) any change of the office-bearers of the Association within thirty days from such change;

(b) any change in the membership, including admissions and re-admissions, within sixty days of such change;

(c) the death, retirement, suspension, cessation of practice of any of its members within ninety days from the date of occurrence thereof; and

(d) such other matters as may be prescribed or required by the Board from time to time.

CHAPTER IV

Membership in the Fund and payment therefrom

19. *Membership of Fund.*— (1) Any Advocate who permanently resides in the State of Goa and practices before any Court or any Tribunal, or any other authority or person legally authorised to take evidence or to adjudicate or decide any disputes in the State and is a member of a Bar Association recognised under section 17, may apply in the prescribed form to the Board for admission as a member of the Fund.

(2) On receipt of an application under sub-section (1), the Board shall make such inquiries as it deems fit and either admit the applicant to the Fund or for reasons to be recorded in writing, reject the application:

Provided that no order rejecting the application shall be passed unless the applicant has been given an opportunity of being heard.

(3) The applicant whose application is rejected under sub-section (2), may prefer an appeal to such authority as may be prescribed and the decision of such authority on the appeal shall be final.

(4) The appeal shall be accompanied by the order appealed against.

(5) The appeal shall be filed within thirty days from the date of receipt of order appealed against.

20. Member to appoint nominee and to give notice of cessation of practice, etc.— (1) Every member of the Fund shall, at the time of admission to the membership of the Fund, make a nomination appointing a nominee in the prescribed manner.

(2) A member may at any time cancel such nomination by sending a notice in writing to the Board, provided that the member shall, alongwith such notice, send a fresh nomination.

(3) Every member who voluntarily suspends practice or ceases to practice or retires shall, within sixty days of such suspension, cessation or retirement, as the case may be, intimate that fact to the Board.

21. Payment of retirement benefit from Fund.— (1) A member of the Fund shall, on cessation of practice, be entitled to receive from and out of the Fund an amount at the rate specified in the Schedule.

(2) In the event of death of a member, the amount shall be paid to his nominee, or, where there is no nominee, to his dependents:

Provided that the Board may call for a succession certificate if circumstances so demand.

(3) A member of the Fund may opt for retirement benefits at any time after five years of his admission as a member of the Fund, but he shall be eligible for re-admission to the Fund as a new member subject to such conditions as may be prescribed.

(4) An application for payment from the Fund shall be preferred to the Board in the prescribed form.

(5) An application received under sub-section (4) shall be disposed of by the Board after such inquiry as it deems necessary.

CHAPTER V

Contribution by members to the Fund and the mode of payment thereof

22. Advocates to pay contribution to Fund.— (1) Every member of the Fund shall pay to the Fund a contribution at the rate and in the manner herein-after provided.

(2) The contribution to be paid by the member shall be at the rate of five rupees in respect of Vakalatnama presented by him to any Court, including the High Court, Tribunal or other authority or person in the State before which or whom the member is entitled to practice under section 30 of the Advocates Act.

(3) The payment of contribution shall be indicated by affixing to the Vakalatnama a stamp of the value of five rupees specially printed under this Act.

23. Printing and sale of stamps.— (1) The Board shall cause to be printed and distributed the Goa Advocates Welfare Fund Stamps each of the value of four rupees with the Emblem and its value inscribed thereon as may be prescribed.

(2) The stamps shall be of the size 2 c. m. X 4 c. m. and be sold only to the members of the Fund.

(3) The custody of the stamps shall be with the Board.

(4) The Board shall control the distribution and sale of the stamps through the Bar Associations.

(5) The Board and the Bar Association shall keep proper accounts of the stamps in such form and in such manner as may be prescribed.

(6) The Bar Associations shall purchase the stamps from the Board after paying the value thereof less ten percent of such value towards incidental expenses.

(7) The Board shall, after deducting from the sale proceeds of stamps the actual cost of printing and distribution of stamps, pay the amount realised by sale of stamps to the Board within fifteen days after the end of every quarter.

24. Vakalatnama not acceptable unless stamped.— No member of the Fund shall present to any Court, Tribunal or other authority or person his Vakalatnama unless a stamp is affixed to it under sub-section (3) of section 22 and no Court, Tribunal or authority or person in the State shall accept the Vakalatnama so presented unless it is stamped.

25. Value of stamps not to be included in costs and not to be collected from clients.— (1) The value of the stamp shall not be included in calculating the costs in the case.

(2) The value of the stamp shall not be collected by the member from his client.

(3) If any member contravenes the provisions of sub-section (2), he shall be liable to the Board for appropriate action.

26. Cancellation of stamps.— Every stamp affixed to a Vakalatnama under sub-section (3) of section 22 shall be cancelled in the manner provided in section 30 of the Court-Fees Act, 1870 (Central Act 7 of 1870).

CHAPTER VI

Miscellaneous

27. Group Life Insurance for members and other benefits.— The Board may, for the welfare of the members of the Fund,—

- (a) obtain from the Life Insurance Corporation of India, policies of Group Life Insurance for the members of the Fund;
- (b) provide for medical and educational facilities for the members of the Fund and their dependants including an insurance for that purpose;
- (c) provide for such other benefits and amenities as may be prescribed.

28. *Restriction on alienation, attachment, etc. of interest of member in the Fund.*— (1) Notwithstanding anything contained in any other law for the time being in force, the interest of any member in the Fund, or the right of a member of the Fund or his nominee, dependants or legal heirs to receive any amount from the Fund, shall not be assigned, alienated or charged and shall not be liable to attachment under any decree or order of any Court, Tribunal or other authority or person.

(2) No creditor shall be entitled to proceed against the Fund or the interest therein of any member or his nominee or legal heirs.

Explanation.— For the purpose of this section, 'creditor' includes the State or any official assignee or receiver appointed under any law for the time being in force.

29. *Vacancy in Board not to invalidate acts or proceedings.*— No act or proceeding of the Board shall be called in question on the ground merely of the existence of any vacancy in or any defect in the constitution of the Board.

30. *Protection of action taken in good faith.*— (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any regulation.

(2) No suit or other legal proceeding shall lie against the Board for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any regulation.

31. *Bar of jurisdiction of Civil Court.*— No Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is, by or under this Act, required to be settled, decided or dealt with or to be determined by the Board.

32. *Board to have powers of Civil Courts.*— The Board shall be competent to take evidence on oath and shall exercise all powers of a Civil Court in the summoning of witnesses and the production of documents.

33. *Power to make regulations.*— (1) The Board may, with the previous approval of the Government, by notification in the Official Gazette, make regulations for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may be made to provide for all matters expressly required or allowed by this Act to be prescribed by the regulations.

(3) All regulations made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

34. *Power to amend Schedule in certain circumstances.*— (1) If the Board recommends to the Government to increase the rate of benefit specified in the Schedule, the Government may, by notification in the Official Gazette, amend the said Schedule so as to increase the rate of benefit as recommended and on the issue of such notification, the said Schedule shall be deemed to be amended accordingly.

(2) Every such notification shall, as soon as possible after it is issued, be laid before the State Legislature.

SCHEDULE

(See sub-section (1) of section 21)

Period of standing	Rate of benefit
1	2
30 Years' standing	Rs. 45000
29 Years' standing	Rs. 43500
28 Years' standing	Rs. 42000
27 Years' standing	Rs. 40500
26 Years' standing	Rs. 39000
25 Years' standing	Rs. 37500
24 Years' standing	Rs. 36000
23 Years' standing	Rs. 34500
22 Years' standing	Rs. 33000
21 Years' standing	Rs. 31500
20 Years' standing	Rs. 30000
19 Years' standing	Rs. 28500
18 Years' standing	Rs. 27000
17 Years' standing	Rs. 25500
16 Years' standing	Rs. 24000
15 Years' standing	Rs. 22500
14 Years' standing	Rs. 21000
13 Years' standing	Rs. 19500
12 Years' standing	Rs. 18000
11 Years' standing	Rs. 16500
10 Years' standing	Rs. 15000
9 Years' standing	Rs. 13500
8 Years' standing	Rs. 12000
7 Years' standing	Rs. 10500
6 Years' standing	Rs. 9000
Upto	
5 Years' standing	Rs. 7500

Statement of Objects and Reasons

There are many Advocates practising in various Courts in this State but upto now, no provisions have been made for their welfare and as a result there is hardly any security for them in their old age.

It is, therefore, proposed to provide for the constitution of an Advocates Welfare Fund and utilisation thereof for payment of certain retirement and other benefits to the Advocates in the State of Goa.

This Bill seeks to achieve the above object.

Financial Memorandum

Clause 3 of the Bill provides that an initial amount of rupees one lakh to be contributed by the Government to the Fund and hence the financial implications involved in respect of this Bill will be to the tune of Rs. 1 lakh.

Memorandum Regarding Delegated Legislation

Clause 33 of the Bill provides for making of regulations by the Board with the previous approval of Government for carrying out the purpose of the Act. This delegation is of normal character.

Panaji,
8th December, 1995.

DOMNICK FERNANDES
Law Minister

Assembly Hall,
8th December, 1995.

ASHOK B. ULMAN
Secretary to the Legislative
Assembly of Goa.

LA/B/3431/1994

The following Bill which was introduced in the Legislative Assembly of Goa on 12-12-95 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 13th December, 1995.

The Goa Flower and Fruit Nurseries (Regulation) Bill, 1995

(Bill No. 30 of 1995)

A BILL

to provide for the regulation of flower and fruit nurseries in the State of Goa and for matters incidental thereto.

Be it enacted by the Legislative Assembly of Goa in the Forty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Flower and Fruit Nurseries (Regulation) Act, 1995.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) “Competent authority”, means a person or authority appointed under section 3 of the Act;

(b) “Director” means the Director of Agriculture of the Government;

(c) “Government” means the Government of Goa;

(d) “Inspecting Officer” means any officer not below the rank of Agriculture Officer or Zonal Agricultural Officer authorised by the Director for the purpose of inspection of nurseries;

(e) “Notification” means a notification published in the Official Gazette;

(f) “Nursery-man” means any person engaged in the production and sale of flower and fruit plants;

(g) “Official Gazette” means the Official Gazette of the Government;

(h) “Plant material” means any propagation material used in raising the plant and includes budwood, scion, rootstock, seed and cutting;

(i) “Flower and fruit plant” means any plant, which gives flowers or edible fruits or nuts and includes budwood, seedlings, grafts, layers, bulbs, seeds, suckers, rhizomes and cuttings of any such plant;

(j) “Owner” in relation to a flower and fruit nursery, means the person who, or the authority which, has the ultimate control over the affairs of such flower and fruit nursery; and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent shall be deemed to be the owner of the flower and fruit nursery;

(k) “prescribed” means prescribed by rules made under this Act;

(l) “Rootstock” means a flower and fruit plant, or part thereof on which any portion of flower and fruit plant has been grafted or budded;

(m) “Scion” means a portion of a flower and fruit plant which is grafted or budded on to a rootstock.

3. *Appointment of competent authorities.*— The Government may, by notification in the Official Gazette,—

(a) appoint such persons as it thinks fit, being Gazetted Officers of the Government, to be competent authority for the purpose of this Act; and

(b) define the limits within which the competent authority shall exercise the powers conferred and perform the duties imposed thereon by or under this Act.

4. *Owner of every flower and fruit nursery to obtain licence.*— No owner of flower and fruit nursery shall, after the expiry of six months from the date of commencement of this Act or from the date on which he first becomes the owner of such nursery, whichever is later, conduct or carry on the business of flower and fruit nursery, except under and in accordance with a licence obtained by him under the provisions of this Act and the rules made thereunder. In case an owner has more than one flower and fruit nursery, whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each such nursery.

5. *Application for grant of licence.*— (1) Every application for licence shall be made to the competent authority in such form and manner and accompanied by such licence fee as may be prescribed.

(2) On receipt of such application, the competent authority shall make such inquiry as it considers necessary and if he is satisfied,—

(a) that the flower and fruit nursery is suitable for proper propagation of flower and fruit plants in respect of which licence has been applied for;

(b) that the applicant is competent to conduct or establish any such flower and fruit nursery;

(c) that the applicant fulfills all other conditions as may be prescribed;

(d) that the applicant has paid the fee prescribed for the licence and has also furnished the prescribed security deposit, if any,

shall grant the licence in the prescribed form.

(3) If the competent authority is not satisfied, it may, after giving a reasonable opportunity of being heard, refuse to grant the licence, after recording the reasons for such refusal, and shall furnish to the applicant a copy of order made thereunder.

(4) Every licence granted under this section shall be valid for a period of three years from the date of issue and may, on an application made to it, be renewed from time to time by the competent authority for such period and on payment of such fee in such manner and on the fulfilment of such conditions as may be prescribed.

(5) Where the competent authority refuses to renew a licence, it shall record in writing the reasons for such refusal and furnish a copy thereof to the applicant:

Provided that no order refusing to renew a licence shall be made, unless the applicant is given a reasonable opportunity of being heard.

6. Duties of licence holder.— Every licence holder under this Act shall,—

(a) undertake to multiply only such varieties of the flower and fruit plants specified in the licence in respect of scion or rootstock, for propagation and sale as may be directed by the competent authority;

(b) keep a complete record of the origin or source of every rootstock and every scion showing:

(i) the botanical name, together with the local name, if any, of the rootstock used;

(ii) the botanical name, together with the local name, if any, of the scion used in raising the flower and fruit plants;

(c) keep a lay out plan showing the position of every rootstock and scion tree employed in raising the flower and fruit plants;

(d) keep the nursery plots as well as the parent trees used for the propagation of flower and fruit plants free from insects, pests or plant diseases;

(e) undertake to prepare the flower and fruit plants in such manner as may be directed by the competent authority;

(f) display in a conspicuous manner on a label the name of every variety of flower and fruit plant enclosed in any package intended for sale,

its age as determined in the prescribed manner and the name of the rootstock together with that of scion of every such plant;

(g) maintain a register in the prescribed form showing the name of the flower and fruit plant sold to any person, its age, the name of the rootstock and scion budwood and the name and address of the person purchasing it, and shall produce the record for inspection on demand by Director or Inspecting Officer;

(h) preserve the register for at least ten years after the date of conclusion of the sale of the flower and fruit plants;

(i) undertake to release for sale or distribution only such flower and fruit plants which are completely free from any kind of insect, pests or plant disease;

(j) keep the plant as well as the progeny tree used for the production of nursery plants free from such insects, pests or diseases as may be prescribed.

7. Only licensed plant material to be utilised for propagation.—

(a) The plant material utilised for propagation shall be only such for which licence has been granted.

(b) the scion variety and rootstock to be propagated in the nursery shall be those which are approved by the Horticulture Department or Agriculture Department of the Government, from time to time.

(c) The vegetatively propagated plant material shall be in direct proportion to the availability of rootstock (Vegetative propagation, if any) and scion wood with the nursery-man;

(d) The nursery-man shall maintain a map showing the details of the fields or beds and the kind of varieties of plants in each bed including that of seedlings as well as budded and grafted plant materials.

(e) The nursery-man shall maintain a register in the prescribed form wherein the performance of the progeny trees shall be recorded.

(f) The competent authority may declare mother trees as unfit for use, if it is satisfied that use of such a tree material shall not be in the interest of flower and fruit industry on account of the following reasons:

(i) poor quality of flower and fruits;

(ii) poor flower and fruit bearing capacity;

(iii) infected with insects, pests and diseases which cannot be cured;

(iv) any other reason which may be considered fit by the competent authority in the interest of flower and fruit industry.

(g) The nursery-man shall quarantine such trees and shall not use their budwood for further propagation and should there be a danger of the spread of the insect, pest or diseases to other nurseries and nursery plants, these trees may be ordered to be destroyed by the competent authority.

city and the nursery-man shall carry out these orders accordingly. Such orders shall also apply to the supply of plant material.

8. *Power of Government to regulate or prohibit import, export or transport of certain flower and fruit plants.*— The Government may, for the purpose of maintaining the quality of any flower and fruit plants grown in any part of the State or to protect them from injurious insect, pest or plant disease, by notification in the Official Gazette, regulate or prohibit, subject to such restriction and conditions as it may impose, the bringing into or taking out of the State or any part thereof, otherwise than across the customs frontiers, as defined by the Central Government, or the transport within the State, of any flower and fruit plants of unknown pedigree or affected by any infectious or contagious diseases or pests.

9. *Power to cancel or suspend licence.*— (1) The competent authority may suspend or cancel any licence granted or renewed under section 5 on one or more of the following grounds, namely:—

(a) that he has parted, in whole or in part, with his control over the flower and fruit nursery, or has otherwise ceased to conduct or hold such flower and fruit nursery; or

(b) that where the maximum rate or price for any variety of any flower and fruit plant has been fixed by the Government by notification, he has sold any such flower and fruit plant at a higher rate or price; or

(c) that he has, without reasonable cause, failed to comply with any of the terms and conditions, of the licence or any directions lawfully given by the competent authority or has contravened any of the provisions of this Act or the rules made thereunder; or

(d) if, the licensee has applied to be adjudicated or has been adjudicated an insolvent; or

(e) if in the opinion of the competent authority, that he has become incompetent to conduct or possess such flower and fruit nursery; or

(f) if he has refused to surrender or produce his licence or the registers and other records required to be maintained under this Act or the rules made thereunder, to the competent authority or any person authorised by it; or

(g) any other prescribed grounds.

(2) The competent authority may suspend the licence pending the passing of cancellation order in respect thereof under sub-section (1).

(3) Before passing an order under sub-section (1), the competent authority shall inform the licensee about the grounds on which it proposes to take action and give him a reasonable opportunity of showing cause against such action.

(4) A copy of every order passed under sub-section (1) or (2) shall be communicated to the licensee forthwith.

10. *Return of licence.*— On the expiry of the period of validity specified in a licence or on receipt

of an order suspending or cancelling a licence, the licensee shall return the licence to the competent authority:

Provided that, the competent authority may after such expiration, suspension or cancellation, give such reasonable time as it thinks fit to the owner to enable him to wind up his flower and fruit nursery.

11. *Issue of duplicate licence.*— If a licence granted to an owner is lost, destroyed, mutilated or damaged, the competent authority shall, on application and payment of prescribed fee, issue a duplicate licence.

12. *Appeals.*— (1) Any person aggrieved by an order of a competent authority refusing to grant or renew a licence, or suspending or cancelling a licence, may appeal in such form and manner, within such period, and to such authority as may be prescribed:

Provided that, the appellate authority may entertain the appeal after expiry of the prescribed period, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate authority shall, after giving the appellant an opportunity of being heard, pass such order on the appeal as it thinks fit.

(3) An order passed under this section shall, subject to the provisions of section 13, be final.

13. *Revision.*— (1) The Government may, suo motu or on an application made to it by an aggrieved person, at any time, for the purpose of satisfying itself, as to the legality or propriety of any order passed under this Act, call for and examine the records of any case and may pass such order thereon as it thinks fit:

Provided that, the Government shall not exercise the powers conferred on it by this section, in respect of an order against which an appeal preferred under section 12 is pending, or, upon application in case an appeal has not been preferred before the expiry of the time limit therefor:

Provided further that, the Government shall not pass any order under this section which adversely affects any person, unless such person has been given a reasonable opportunity of being heard.

(2) An order passed under this section shall be final.

14. *Powers of entry and inspection of nurseries.*— (1) For the purpose of ascertaining the position and examining the working of any flower and fruit nursery or for any other purpose mentioned in this Act, or the rules made thereunder, the competent authority or any person authorised by it or by the Government in this behalf, shall have the right at all reasonable hours and with or without assistants,—

(a) to enter into any flower nursery and to inspect or examine the flower and fruit plants therein;

(b) to order the production of any account-book, register, records or other documents, relating to such nursery and take or cause to be taken extracts from or copies of such documents;

(c) to ask all necessary questions and examine any person having control of, or employed in connection with, such nursery;

(2) The licensee, and all persons employed in connection with the nursery, shall afford the competent authority or the authorised person all reasonable access and facilities for such inspection and examination as may be required for the purposes aforesaid and shall be bound to answer all questions to the best of their knowledge and belief, to produce documents in their possession and to furnish such other information in relation to the flower and fruit nursery as may be required by such authority or person.

15. Penalties.— If any person,—

(a) contravenes any of the provisions of this Act, or of any rule made thereunder, the contravention of which is made punishable under this section; or

(b) obstructs any officer or person in the exercise of any powers conferred or in the performance of any duty imposed upon him by or under this Act,

he shall on conviction, be punished with fine which may extend to one thousand rupees, or imprisonment for a term which may extend to one month, or with both.

16. Offences by companies.— (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against, and punished accordingly:

Provided that, nothing contained in this sub-section shall render any person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer, as the case may be, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purpose of this section,—

(a) 'Company' means any body corporate and includes a firm or other association of individuals;

(b) 'director' in relation to a firm, means a partner in the firm.

17. Cognizance of offence.— No Court shall take cognizance of any offence punishable under this Act except on the report in writing of the facts constituting such offence made by the competent authority or any officer authorised by the Government in this behalf.

18. Jurisdiction of Court.— No Court inferior to that of a Judicial Magistrate of the First Class, shall try any offence punishable under this Act or rules made thereunder.

19. Officers and persons exercising powers under this Act to be public servants.— (1) All Officers appointed under this Act and every person authorised to exercise any powers conferred or to perform any duties imposed on him by or under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act XLV of 1860).

(2) No suit, prosecution or other legal proceedings shall lie against the Government or any officer thereof for anything which is in good faith done or intended to be done in pursuance of any powers conferred under this Act or any rules made thereunder.

20. Powers to delegate.— The Government may, by notification in the Official Gazette and subject to such restriction and conditions as may be specified therein, authorise any officer subordinate to it, to exercise any power under this Act except the power to make rules under section 21.

21. Power to make rules.— (1) The Government may, by notification in the Official Gazette, and subject to condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which and manner of making application for licence;

(b) the fee and security deposit for grant of licences and renewal thereof, the period for which, the conditions subject to which and the form in which licence may be granted under section 5;

(c) the grounds, the contravention of which by the licensee, shall entail suspension or cancellation of the licence under section 9;

(d) the manner of determination of age of flower and fruit plant kept for sale;

(e) maintenance of register;

(f) specifying the names of insects, pests, and diseases from which progeny trees are to be kept free from;

(g) the fee payable in respect of duplicate licence under section 11;

(h) the form and manner in which, the period within which and the authority to which an appeal

may be made under section 12, and the procedure to be followed by the appellate authority in disposing of the appeal;

(i) any other matter which is to be or may be prescribed.

Statement of Objects and Reasons

There are a large number of agencies/nurseries dealing with fruit and ornamental plants in Goa. Some nurseries also produce cut flowers for sale within and outside the State. However, the nursery trade in Goa is unregulated and without any Government control as to the quality of the product.

It is, therefore, desirable to have a proper legislation to control the growing trade in plants and flowers.

This Bill seeks to achieve the above objects.

Memorandum Regarding Delegated Legislation

Clause 3 of the Bill empowers the Government by notification to appoint some of its Gazetted officers as competent authority and also to define the limits within which they may have jurisdiction.

Also, Clause 8 empowers the Government to regulate or prohibit by notification, the transportation of flowers and fruit plants of unknown pedigree or affected by pests.

Again, clause 20 enables the Government to delegate its powers by notification, to certain officers sub-ordinate to it and clause 21 empowers the Government to frame rules for carrying out the purposes of the Act.

These delegations are of normal character.

Financial Memorandum

There are no financial implications as the Act will be implemented with the existing departmental machinery.

Panaji,
11th December, 1995

D. G. NARVEKAR
Minister for Agriculture

Assembly Hall,
Panaji,
11th December, 1995.

ASHOK B. ULMAN
Secretary to the Legislative
Assembly of Goa.